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6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT SEATTLE

9                   UNITED STATES OF AMERICA, et al.,

10                  Plaintiffs,

11                  v.

12                   STATE OF WASHINGTON, et al.,

13                  Defendants.

CASE NO. CV 9213

Subproceeding No. 01-02

ORDER

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15                 This matter is before the Court for consideration of cross-motions by the Samish Tribe and the  
16                 eight Treaty Tribes to re-establish a briefing schedule in this matter. Dkt. ## 144, 147. Having  
17                 considered the motions and responsive memoranda, the Court now finds and ORDERS:

18                 (1) The motion by the Samish Tribe to withdraw their opening brief, filed August 12, 2005 (Dkt.  
19                 # 144) is DENIED. The current matter was initiated by that motion to reopen, and the motion shall  
20                 remain on the record. The Samish Tribe may, however, file a supplemental brief as set forth in the  
21                 following briefing schedule.

22                 (2) The Court notes that issues of timeliness and equitable considerations raised previously by the  
23                 Treaty Tribes have not yet been addressed. The Court declines to find, as the Samish Tribe urges, that  
24                 the Ninth Circuit Court of Appeals' denial of rehearing *en banc* constituted a ruling on the merits of these  
25                 issues. They therefore remain at issue, such that a period of discovery is necessary. The motion of the  
26                 Treaty Tribes for a scheduling order incorporating a period of discovery is accordingly GRANTED. Dkt.  
27                 # 147.

28                 ORDER - 1

(3) The parties shall observe the following briefing schedule:

June 30, 2006	Completion of Discovery
August 1, 2006	The Samish Tribes' Supplemental Brief due
September 1, 2006	The Treaty Tribes' Response due
September 29, 2006	The Samish Tribes' Reply due

(4) The Samish Tribe's Rule 60(b) Motion to Re-Open shall be noted on the Court's calendar for October 6, 2006. Oral argument shall be scheduled on a date thereafter as shall be agreed among the parties. Pages limits shall remain as set previously. The supplemental brief of the Samish Tribe shall not exceed twenty pages.

DATED this 28 day of February 2006.

  
RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE